# ANALYSIS

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## TWO SHILLINGS AND SIXPENCE NET

## ANALYSIS COMPETITION SIXTH "PROBLEM"

A report by Professor A. J. Ayer on the fifth ANALYSIS competition, together with the three best entries, appears in this issue.

The sixth " problem " is set by Mr. P. F. Strawson of Oxford University, and is as follows :

### "HOW CAN ONE WISH TO HAVE BEEN NAPOLEON?"

Entries (of not more than 600 words), accompanied by a stamped, addressed envelope or international stamp voucher if the return of the MSS, is desired, should be sent to : **THE EDITOR OF "ANALYSIS" BY THURSDAY, SEPTEMBER 30th, 1954.** *No entries should be sent to Mr. Strawson.* Contributors may submit entries either under their own names or a pseudonym. A report, together with any winning entries, will be published, if possible, in *Analysis* for December 1954.

THE EDITOR.

## REPORT ON *ANALYSIS* PROBLEM No. 5

### "DOES IT MAKE SENSE TO SAY THAT DEATH IS SURVIVED?"

#### *By* A. J. AYER

ELEVEN entries were received, four of them from Great Britain, one from Australia, one from Canada, four from the United States and one allegedly from Paradise. The Elysian entrant, who signed his communication with the name of René Descartes, claimed to have got it typed by tele-kinesis. I see in this the hand of the Arch-deceiver, but I am afraid that it has lost something of its cunning ; for the account which was given of the after life was not particularly plausible.

On the whole the essays were sensible but pedestrian. Not much of interest was said either about the mind-body problem or about the criteria of self-identity. These are, indeed, difficult questions to discuss within the space of six hundred words, but I felt that a little more should have been done about them. The limit was in any case not strictly adhered to.

Only one competitor, Mr. Willis, devoted any serious

attention to the question of re-incarnation. The others were concerned with the possibility of surviving in a disembodied state. The majority were fairly easily satisfied that this does make sense. They found no difficulty in supposing that there could be a series of experiences which, though not associated with a body, were still the experiences of some person ; and while they were unable to formulate a criterion of self-identity apart from bodily continuity they were convinced that one could be forthcoming. I am not prepared to say that they are wrong on either count ; but I do not find that my doubts about these questions have been resolved.

I award the first place to Mr. Willis, the second to Mr. Cioffi and the third to Mr. Londey, though his second argument seems to me confused. It is surely not true that " to speak of any perceptions (as directly experienced) is nonsense unless they are mine." But I see why he is tempted to say so.

*University College, London.*

# " DOES IT MAKE SENSE TO SAY THAT DEATH IS SURVIVED? "

## I

### By RICHARD WILLIS

A SURVIVOR is normally somebody who does *not* die. Is " he died *and* survived " a contradiction ?

" We know what it would be like to wake up one morning ' in ' another body. Provided our minds survive (i.e. our likes, dislikes, skills, habits, beliefs, etc., and, above all, our memory), *we* can be said to survive. Memory is particularly important, since if X remembers an experience of Smith's X must be Smith."

But how do we know that X's memory is a real memory? If X's body is not Smith's body surely this " memory " must be an illusion.

" Normally this would be true. Suppose, however, that X seemed to remember *all* the experiences of Smith's that Smith himself could be expected to remember, and that he had no other memories. Would not X then *be* Smith, even if he had a different body? We could hardly describe him as suffering from

total amnesia. Couldn't we say Smith had 'changed bodies'?"

But Smith might still exist in his own body. Mental similarity cannot be a sufficient criterion of personal identity because two separate people could have identically similar minds. And we cannot say that a mind encountered on one occasion is *the same* as a mind encountered on another unless the body "containing" it is the same. This is the crux of the matter : mental identity, as opposed to mental similarity, entails bodily identity.

Suppose A dies in the night. *Two* minds just like his may appear next morning " in " two bodies, B and C. These two people cannot both be A. (What would it be like to wake up as two people?) Nor, *ex hypothesi*, is there any criterion which enables us to say that one, rather than the other, is A. Therefore A, B and C are three people. (After all, there is always the possibility that A may come to life again.) It follows arithmetically that two people are involved if only one body wakes up " containing " a mind just like A's.

" Of course we must *speak* of A, B and C as three people. But it will seem to B (and to C) as if in all important respects he were A ; and this will be for A as good as survival."

But suppose B wakes up with small-pox and dies immediately, while C lives for ever. Will this be half as good for A as survival? No. It will be good for C, bad for B, and A will have died. Suppose A foresees everything the night before and asks : " What will it be like? Should I expect small-pox or health? " We can only reply : " Your question is unanswerable in principle. You cannot expect another man's experiences." Thus not only is it necessary to *speak* of A, B and C as three people ; the knowledge that minds just like his will come into being is not even a comfort to A on his death-bed. And the difficulty hardly vanishes if only one mind just like A's comes into being ; for it would be queer to say survival as one person was satisfactory, survival as two unsatisfactory.

However, A's question is unanswerable not because an answer to it would be meaningless, but merely because in the circumstances there can be no reason for giving one answer rather than the other. Thus it may still make sense to speak of waking up " in " another body. This—even if it involves, strictly speaking, losing our identity—is all that matters.

*Richmond, Surrey.*

## II

### By FRANK CIOFFI

ONE can say any of four things about the statement " Death is survived ".

(1) It makes sense.

(2) It does not make sense because the notion of survival is unintelligible.

(3) It does not make sense because the notion of non-survival is unintelligible.

(4) It makes sense but in a peculiar way.

(1) It has been maintained that " Death is survived is a privately confirmable hypothesis about our own future experience " (C. I. Lewis) : but it is a privately confirmable hypothesis about our own future experience only if it is true.

It has been asserted that " it could be verified by following the prescription ' Wait until you die ' " (Schlick) : but this is a very strange prescription, for how would one go about verifying it?

The difficulty in assimilating " Death is survived " to ordinary empirical hypothesis is its asymmetry. The state of affairs which Schlick describes as " inhabiting a world differing from our ordinary world only in the absence of all data which I should call parts of my own body " counts for it, but what could conceivably count against it? If we do not survive death we can never know it ; if we do survive death we cannot help but know it. If, then, it is an empirical hypothesis, it must be an empirical hypothesis of a peculiar kind.

(2) It might be argued that the easiest way of determining the status of the statement " Death is survived " is to examine the stock use of the words it contains : but philosophic short-shrifting will not do in this instance. " Here is one long-standing cadaver and there is another, so death is not survived" is not convincing. It has been argued—with more subtlety—that to suppose that something survives the destruction of the body is as absurd as to suppose that there is a faculty of kicking which survives the loss of a leg. This has often been asserted, but never demonstrated.

(3) The notion of survival then is not prima facie unintelligible. On the other hand the notion of non-survival is notoriously difficult. Its difficulty has even been invoked to account for the prevalence of the belief in survival among primitive peoples. Anyone who attempts to imagine his own annihilation

inevitably finds that he has smuggled himself into the picture as a spectator : this is not due to any defect in his imaginative powers for it is *logically* inconceivable that anyone should witness his own annihilation. If, then, it is self-contradictory to assert that I shall witness my own annihilation, it is vacuous to assert that I will not.

(4) Someone might object that what the above considerations show is not that " Death is survived " is senseless, but that " Death is survived " does not mean " The series of my experiences will continue after the destruction of my body ". For if surviving bodily destruction became as well authenticated an occurrence as surviving· measles, it would still make sense to ask " Is death survived ? " Only in that case what we now call dying would take its place with other misfortunes such as losing an arm or a leg or being otherwise mangled.

For anyone who interprets the statement " Death is survived" in this way, it means " The series of my experiences will never end ". This restores the symmetry by making both alternatives equally unintelligible. Such an individual must agree that so construed " Death is survived " fails to resemble that paradigm of significiance, the weather report, for nothing stands to it as to-day's weather stands to yesterday's forecast.

When he believes that " Death is survived " he believes that he is approaching some fulfillment unspecifiable except in that it will then be senseless to ask " Will the series of my experiences continue? " He could with justice be accused of attaching a quite arbitrary meaning to " Death is survived " : but he could with equal justice maintain that no other sense could account for the fuss.

*Oxford University.*


## III

### *By* DAVID LONDEY

*Argument* 1. If a crisis is survived, *something* survives. Some-one survives an accident ; some team survives the second round of the competition ; and so on. And this is just what we would expect, since " survives " is a verb : and a verb demands a subject, not merely as a matter of nice grammar but in order to make sense, What, then, is the *something* that might be said to survive death? I take it that we are not concerned with any ' fancy ' sense of

" death ", but with the ordinary sense intended when I say that Aunt Mary is dead and Uncle John is not. That is, the sense in which, if a death has occurred, a doctor would normally sign a death certificate, an obituary would appear in the paper, and so on. This is often referred to as " the death of the body ". The use of this phrase (" the death of the body ") itself seems to suggest that something else survives it, or at least, may survive it. (The body, of course, survives its own death, but only in a trivial sense.) But when we ask for this *something else* to be produced (e.g. the soul), the demand cannot be met. If we are given a list of its characteristics, its accuracy cannot be checked, for we have no possible way of finding out whether there *is* something else. And this is not due to a defect in the method of finding out —it is due to the fact that we cannot possibly imagine what it would be like to find out. Hence, since something to survive is necessary for it to make sense to say that death is survived, it does not make sense.

*Argument* 2. What would it be like to survive death? Can we imagine surviving it? Now according to Schlick it would be enough to imagine witnessing one's own funeral and continuing to exist without a body. But one immediately wants to know : " Who (what) is supposed to be doing the witnessing? " Argument 1 seems to apply here too. And anyway, if " witnessing " is to mean " perceiving " in any normal sense, one wants to know what organs are used. For a man without eyes would be said to *see* a football match only in an extended sense of " see ". Compare, ' hearing ' by lip-reading. In short, it seems that all our models for perceiving are geared to the idea of an organ or a mechanism. But the root of the trouble is that by using a verb we are forced to give it a subject—and too often this leads us to populate the world with unintelligible entities in an effort to make it intelligible.

The problem, then, is to describe the situation without using verbs such as " witnessing ", " perceiving ", etc. It seems to me that this can be done. If I say " I am perceiving X " I am saying that my perceptions are so-and-so. But for me to speak of any perceptions (as directly experienced) is nonsense unless they are mine. If I feel your pain, it is my pain. This I take to be the sense of "All perceptions are my perceptions " : and then it is clear that the possessive " my " becomes vacuous when applied to " perceptions ". " Perception " becomes an occurrence-word rather than an activity-word.

Taking it this way, to imagine surviving death we have

imagined nothing more than there being perceptions of one's own funeral. I am tempted to say (perhaps rightly) that I have to imagine nothing more than my own funeral. In either case it can be imagined, and without any need or temptation to bring in a metaphysical subject. So it does make sense to say that death is survived.

So we have two arguments—both, so far as I can see, valid—reaching opposite conclusions. But they do not, as it were, come to grips. It does not seem that the points about the logic of the verb " survive " are falsified by the second argument : nor does it seem that the logic of " survive " falsifies the second argument.

We are then faced with the following alternatives :

(*a*) there is a flaw in one of the arguments ;

(*b*) the discrepancy between them may be resolved by someone sharper-sighted than the present writer ;

(c) there is such a radical confusion in our ways of speaking and thinking about survival after death that " death is survived " is strictly unintelligible—though not in the way claimed by Argument 1.

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# ON PUNISHMENT

## *By* A. M. QUINTON

### I

*Introductory*

THERE is a prevailing antinomy about the philosophical justification of punishment. The two great theories—retributive and utilitarian—seem, and at least are understood by their defenders, to stand in open and flagrant contradiction. Both sides have arguments at their disposal to demonstrate the atrocious consequences of the rival theory. Retributivists, who seem to hold that there are circumstances in which the infliction of suffering is a good thing in itself, are charged by their opponents with vindictive barbarousness. Utilitarians, who seem to hold that punishment is always and only justified by the good consequences it produces, are accused of vicious opportunism.

Where the former insists on suffering for suffering's sake, the latter permits the punishment of the innocent. Yet, if the hope of justifying punishment is not to be abandoned altogether, one of these apparently unsavoury alternatives must be embraced. For they exhaust the possibilities. Either punishment must be self-justifying, as the retributivists claim, or it must depend for its justification on something other than itself, the general formula of " utilitarianism " in the wide sense appropriate here.

In this paper I shall argue that the antinomy can be resolved, since retributivism, properly understood, is not a moral but a logical doctrine, and that it does not provide a moral justification of the infliction of punishment but an elucidation of the use of the word. Utilitarianism, on the other hand, embraces a number of possible moral attitudes towards punishment, none of which necessarily involves the objectionable consequences commonly adduced by retributivists, provided that the word "punishment" is understood in the way that the essential retributivist thesis lays down. The antinomy arises from a confusion of modalities, of logical and moral necessity and possibility, of " must " and " can " with " ought " and " may ". In brief, the two theories answer different questions : retributivism the question " when (logically) *can* we punish? ", utilitarianism the question " when (morally) *may* we or *ought* we to punish? ". I shall also describe circumstances in which there is an answer to the question " when (logically) *must* we punish? " Finally, I shall attempt to account for this difference in terms of a distinction between the establishment of rules whose infringement involves punishment from the application of these rules to particular cases.

2

### The Retributive Theory

The essential contention of retributivism is that punishment is only justified by guilt. There is a certain compellingness about the repudiation of utilitarianism that this involves. We feel that whatever other considerations may be taken into account, the primary and indispensable matter is to establish the guilt of the person to be punished. I shall try to show that the peculiar outrageousness of the rejection of this principle is a consequence, not of the brutality that such rejection might seem to permit, but of the fact that it involves a kind of lying. At any rate the first principle of retributivism is that it is necessary that a man be guilty if he is to be punished.

But this doctrine is normally held in conjunction with some or all of three others which are logically, if not altogether psychologically, independent of it. These are that the function of punishment is the negation or annulment of evil or wrong-doing, that punishment must fit the crime (the *lex talionis*) and that offenders have a right to punishment, as moral agents they ought to be treated as ends not means.

The doctrine of " annulment ", however carefully wrapped up in obscure phraseology, is clearly utilitarian in principle. For it holds that the function of punishment is to bring about a state of affairs in which it is as if the wrongful act had never happened. This is to justify punishment by its effects, by the desirable future consequences which it brings about. It certainly goes beyond the demand that only the guilty be punished. For, unlike this demand, it seeks to prescribe exactly what the punishment should be. Holding that whenever wrong has been done it must be annulled, it makes guilt—the state of one who has done wrong—the sufficient as well as the necessary condition of punishment. While the original thesis is essentially negative, ruling out the punishment of the innocent, the annulment doc-trine is positive, insisting on the punishment and determining the degree of punishment of the guilty. But the doctrine is only applicable to a restricted class of cases, the order of nature is inhospitable to attempts to put the clock back. Theft and fraud can be compensated, but not murder, wounding, alienation of affection or the destruction of property or reputation.

Realising that things cannot always be made what they were, retributivists have extended the notion of annulment to cover the infliction on the offender of an injury equal to that which he has caused. This is sometimes argued for by reference to Moore's theory of organic wholes, the view that sometimes two blacks make a white. That this, the *lex talionis*, revered by Kant, does not follow from the original thesis is proved by the fact that we can always refrain from punishing the innocent but that we cannot always find a punishment to fit the crime. Some indeed would argue that we can never fit punishment to wrong-doing, for how are either, especially wrong-doing, to be measured? (Though, as Ross has pointed out, we can make ordinal judg-ments of more or less about both punishment and wrong-doing.)

Both of these views depend on a mysterious extension of the original thesis to mean that punishment and wrong-doing must necessarily be somehow equal and opposite. But this is to go even further than to regard guilt and punishment as necessitating one

another. For this maintains that only the guilty are to be punished and that the guilty are always to be punished. The equal and opposite view maintains further that they are to be punished to just the extent that they have done wrong.

Finally retributivism has been associated with the view that if we are to treat offenders as moral agents, as ends and not as means, we must recognize their right to punishment. It is an odd sort of right whose holders would strenuously resist its recognition. Strictly interpreted, this view would entail that the sole relevant consideration in determining whether and how a man should be punished is his own moral regeneration. This is utilitarian and it is also immoral, since it neglects the rights of an offender's victims to compensation and of society in general to protection. A less extreme interpretation would be that we should never treat offenders merely as means in inflicting punishment but should take into account their right to treatment as moral agents. This is reasonable enough, most people would prefer a penal system which did not ignore the reformation of offenders. But it is not the most obvious correlate of the possible view that if a man is guilty he ought to be punished. We should more naturally allot the correlative right to have him punished to his victims or society in general and not to him himself.

3

*The Retributivist Thesis.*

So far I have attempted to extricate the essentials of retributivism by excluding some traditional but logically irrelevant associates. A more direct approach consists in seeing what is the essential principle which retributivists hold utilitarians to deny. Their crucial charge is that utilitarians permit the punishment of the innocent. So their fundamental thesis must be that only the guilty are to be punished, that guilt is a necessary condition of punishment. This hardly lies open to the utilitarian counter-charge of pointless and vindictive barbarity, which could only find a foothold in the doctrine of annulment and in the *lex talionis*. (For that matter, it is by no means obvious that the charge can be sustained even against them, except in so far as the problems of estimating the measure of guilt lead to the adoption of a purely formal and external criterion which would not distinguish between the doing of deliberate and accidental injuries.)

Essentially, then, retributivism is the view that only the guilty are to be punished. Excluding the punishment of the

innocent, it permits the other three possibilities : the punishment of the guilty, the non-punishment of the guilty and the non-punishment of the innocent. To add that guilt is also the sufficient condition of punishment, and thus to exclude the non-punishment of the guilty, is another matter altogether. It is not entailed by the retributivist attack on utilitarianism and has none of the immediate compulsiveness of the doctrine that guilt is the necessary condition of punishment.

There is a very good reason for this difference in force. For the necessity of not punishing the innocent is not moral but logical. It is not, as some retributivists think, that we *may* not punish the innocent and *ought* only to punish the guilty, but that we *cannot* punish the innocent and *must* only punish the guilty. Of course, the suffering or harm in which punishment consists can be and is inflicted on innocent people but this is not punishment, it is judicial error or terrorism or, in Bradley's characteristically repellent phrase, " social surgery ". The infliction of suffering on a person is only properly described as punishment if that person is guilty. The retributivist thesis, therefore, is not a moral doctrine, but an account of the meaning of the word " punishment ". Typhoid carriers and criminal lunatics are treated physically in much the same way as ordinary criminals, they are shut up in institutions. The essential difference is that no blame is implied by their imprisonment, for there is no guilt to which the blame can attach. " Punishment " resembles the word " murder ", it is infliction of suffering on the guilty and not simply infliction of suffering, just as murder is wrongful killing and not simply killing. Typhoid carriers are no more (usually) criminals than surgeons are (usually) murderers. This accounts for the flavour of moral outrage attending the notion of punishment of the innocent. In a sense a contradiction in terms, it applies to the common enough practice of inflicting the suffering involved in punishment on innocent people and of sentencing them to punishment with a lying imputation of their responsibility and guilt. Punishment *cannot* be inflicted on the innocent, the suffering associated with punishment *may* not be inflicted on them, firstly, as brutal and secondly, if it is represented as punishment, as involving a lie.

This can be shown by the fact that punishment is always *for* something. If a man says to another " I am going to punish you " and is asked " what for ", he cannot reply " nothing at all " or " something you have not done ". At best, he is using " punish " here as a more or less elegant synonym for " cause

to suffer ". Either that or he does not understand the meaning of " punish ". " I am going to punish you for something you have not done " is as absurd a statement as " I blame you for this event for which you were not responsible ". " Punishment implies guilt " is the same sort of assertion as " ought implies can ". It is not *pointless* to punish or blame the innocent, as some have argued, for it is often very useful. Rather the very conditions of punishment and blame do not obtain in these circumstances.

4

*An Objection.*

But how can it be useful to do what is impossible? The innocent can be punished and scapegoats are not logical impossibilities. We do say " they punished him for something he did not do ". For A to be said to have punished B it is surely enough that A thought or said he was punishing B and ensured that suffering was inflicted on B. However innocent B may be of the offence adduced by A, there is no question that, in these circumstances, he has been punished by A. So guilt cannot be more than a *moral* precondition of punishment.

The answer to this objection is that " punish " is a member of that now familiar class of verbs whose first-person-present use is significantly different from the rest. The absurdity of " I am punishing you for something you have not done " is analogous to that of " I promise to do something which is not in my power ". Unless you are guilty I am no more in a position to punish you than I am in a position to promise what is not in my power. So it is improper to say " I am going to punish you " unless you are guilty, just as it is improper to say " I promise to do this " unless it is in my power to do it. But it is only *morally* improper if I do not *think* that you are guilty or that I can do the promised act. Yet, just as it is perfectly proper to say of another " he promised to do this ", whether he thought he could do it or not, provided that he *said* " I promise to do this ", so it is perfectly proper to say " they punished him ", whether they thought him guilty or not, provided that they *said* " we are going to punish you " and inflicted suffering on him. By the first-person-present use of these verbs we *prescribe* punishment and *make* promises, these activities involve the satisfaction of conditions over and above what is required for *reports* or *descriptions* of what their prescribers or makers represent as punishments and promises.

Understandably " reward " and " forgive " closely resemble " punish ". Guilt is a precondition of forgiveness, desert—its contrary—of reward. One cannot properly say " I am going to reward you " or " I forgive you " to a man who has done nothing. Reward and forgiveness are always *for* something. But, again, one can say " they rewarded (or forgave) him for something he had not done ". There is an interesting difference here between " forgive " and " punish " or " reward ". In this last kind of assertion " forgive " seems more peculiar, more inviting to inverted commas, than the other two. The three undertakings denoted by these verbs can be divided into the utterance of a more or less ritual formula and the consequences authorized by this utterance. With punishment and reward the consequences are more noticeable than the formula, so they come to be sufficient occasion for the use of the word even if the formula is inapplicable and so improperly used. But, since the consequences of forgiveness are negative, the absence of punishment, no such shift occurs. To reward involves giving a reward, to punish inflicting a punishment, but to forgive involves no palpable consequence, e.g. handing over a written certificate of pardon.

Within these limitations, then, guilt is a *logically* necessary condition of punishment and, with some exceptions, it might be held, a morally necessary condition of the infliction of suffering. Is it in either way a sufficient condition ? As will be shown in the last section there are circumstances, though they do not obtain in our legal system, nor generally in extra-legal penal systems (e.g. parental), in which guilt is a logically sufficient condition of at least a sentence of punishment. The parallel moral doctrine would be that if anyone is guilty of wrong-doing he ought morally to be punished. This rather futile rigourism is not embodied in our legal system with its relaxations of penalties for first offenders. Since it entails that offenders should never be forgiven it is hardly likely to commend itself in the extra-legal sphere.

5

*The Utilitarian Theory.*

Utilitarianism holds that punishment must always be justified by the value of its consequences. I shall refer to this as " utility " for convenience without any implication that utility must consist in pleasure. The view that punishment is justified by the value of its consequences is compatible with any ethical theory which allows meaning to be attached to moral judgments. It

holds merely that the infliction of suffering is of no value or of negative value and that it must therefore be justified by further considerations. These will be such things as prevention of and deterrence from wrong-doing, compensation of victims, reformation of offenders and satisfaction of vindictive impulses. It is indifferent for our purposes whether these are valued as intuitively good, as productive of general happiness, as conducive to the survival of the human race or are just normatively laid down as valuable or derived from such a norm.

Clearly there is no *logical* relation between punishment and its actual or expected utility. Punishment *can* be inflicted when it is neither expected, nor turns out, to be of value and, on the other hand, it can be foregone when it is either expected, or would turn out, to be of value.

But that utility is the morally necessary or sufficient condition, or both, of punishment are perfectly reputable moral attitudes. The first would hold that no one should be punished unless the punishment would have valuable consequences, the second that if valuable consequences would result punishment ought to be inflicted (without excluding the moral permissibility of utility-less punishment). Most people would no doubt accept the first, apart from the rigourists who regard guilt as a morally sufficient condition of punishment. Few would maintain the second except in conjunction with the first. The first says when you may not but not when you ought to punish, the second when you ought to but not when you may not.

Neither permits or encourages the punishment of the innocent, for this is only logically possible if the word " punishment " is used in an unnatural way, for example as meaning any kind of deliberate infliction of suffering. But in that case they cease to be moral doctrines about punishment as we understand the word and become moral doctrines (respectively platitudinous and inhuman) about something else.

So the retributivist case against the utilitarians falls to the ground as soon as what is true and essential in retributivism is extracted from the rest. This may be unwelcome to retributivists since it leaves the moral field in the possession of the utilitarians. But there is a compensation in the fact that what is essential in retributivism can at least be definitely established.

6

*Rules and Cases.*

So far what has been established is that guilt and the value or

utility of consequences are relevant to punishment in different ways. A further understanding of this difference can be gained by making use of a distinction made by Sir David Ross in the appendix on punishment in *The Right and the Good*. This will also help to elucidate the notion of guilt which has hitherto been applied uncritically.

The distinction is between laying down a rule which attaches punishment to actions of a certain kind and the application of that rule to particular cases. It might be maintained that the utilitarian theory was an answer to the question " what kinds of action should be punished ? " and the retributive theory an answer to the question ." on what particular occasions should we punish? " On this view both punishment and guilt are defined by reference to these rules. Punishment is the infliction of suffering attached by these rules to certain kinds of action, guilt the condition of a person to whom such a rule applies. This accounts for the logically necessary relation holding between guilt and punishment. Only the guilty can be punished because unless a person is guilty, unless a rule applies to him, no infliction of suffering on him is properly called punishment, since punishment is infliction of suffering as laid down by such a rule. Considerations of utility, then, are alone relevant to the determination of what in general, what *kinds* of action, to punish. The outcome of this is a set of rules. Given these rules, the question of whom in particular to punish has a definite and necessary answer. Not only will guilt be the logically necessary but also the logically sufficient condition of punishment or, more exactly, of a sentence of punishment. For declaration of guilt will be a declaration that a rule applies and, if the rule applies, what the rule enjoins—a sentence of punishment—applies also.

The distinction between setting up and applying penal rules helps to explain the different parts played by utility and guilt in the justification of punishment, in particular the fact that where utility is a moral, guilt is a logical, justification. Guilt is irrelevant to the setting up of rules, for until they have been set up the notion of guilt is undefined and without application. Utility is irrelevant to the application of rules, for once the rules have been set up punishment is determined by guilt, once they are seen to apply the rule makes a sentence of punishment necessarily follow.

But this account is not an accurate description of the very complex penal systems actually employed by states, institutions and parents. It is, rather, a schema, a possible limiting case.

For it ignores an almost universal feature of penal systems (and of games, for that matter, where penalties attend infractions of the rules)—discretion. For few offences against the law is one and only one fixed and definite punishment laid down. Normally only an upper limit is set. If guilt,the applicability of the rule, is established no fixed punishment is entailed but rather, for example, one not exceeding a fine of forty shillings or fourteen days' imprisonment. This is even more evident in the administration of such institutions as clubs or libraries and yet more again in the matter of parental discipline. The establishment of guilt does not close the matter, at best it entails some punishment or other. Precisely how much is appropriate must be determined by reference to considerations of utility. The variety of things is too great for any manageably concise penal code to dispense altogether with discretionary judgment in particular cases.

But this fact only shows that guilt is not a logically *sufficient* condition of punishment, it does not affect the thesis that punishment entails guilt. A man cannot be guilty unless his action falls under a penal rule and he can only be properly said to be punished if the rule in question prescribes or permits some punishment or other. So all applications of the notion of guilt necessarily contain or include all applications of the notion of punishment.

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## A QUESTION ON KNOWLEDGE OF KNOWLEDGE

### By HAO WANG

IN his *A Reply to My Critics*, Moore writes[1] : I have sometimes distinguished between two different propositions, each of which has been made by some philosophers, namely (1) the proposition " There are no material things " and (2) the proposition " Nobody knows for certain that there are any material things." And in my latest published writing, my British Academy lecture called " Proof of an External World "—I implied with regard to the first of these propositions that it could be *proved* to be false in such a way as this ; namely, by holding up one of your hands and saying " *This* hand is a material thing ; therefore there is at least one material thing ". But with regard to the second of those two propositions, which has, I think, been far more commonly asserted than the first, I do not think I have ever

[1] *The Philosophy of G. E. Moore*, ed. P. A. Schilpp, 1942, 668.

implied that *it* could be *proved* to be false in any such simple way ; e.g., by holding up one of your hands and saying " I know that this hand is a material thing ; therefore at least one person knows that there is at least one material thing ".

The question which I wish to ask is merely this. Why should anybody who accepts the first proof as valid reject the second? It is a question of which I feel utterly incompetent to supply a satisfactory answer. Yet somehow I have the suspicion that this belongs to the kind of question on which readers of ANALYSIS are experts.

To clarify a bit the problem. " Those philosophers who have denied the existence of Matter have not wished to deny that under my trousers I wear pants ". Moore makes perfectly clear that he wishes only to refute those philosophers who do wish to deny that there are trousers or pants at all. Maybe Moore is hitting at a straw man. I am, however, not asking whether or not that is the case.

It has also been contended that, since the circumstances under which Moore asserted emphatically the existence of his hands were so artificial and extraordinary, he was not using language in an ordinary way and *therefore* he was not giving a valid proof. This is not relevant to the present question either, because I am asking that the validity of Moore's proof be assumed.

Apparently Moore does not wish to distinguish ' know ' from ' know for certain '. Accordingly, it is not necessary to pay special attention to the question of certainty. Indeed, Moore's own proof is concerned not so much with the Cartesian doubt as with a ' Kantian dogma '.

In short, Moore holds at the same time at least two propositions : ($\alpha$) " The proposition (1) can be proved to be false by holding up one of your hands and saying ' *This* hand is a material thing; therefore there is at least one material thing ' " ; and ($\beta$) " the proposition (2) cannot be proved to be false in a similar way as, e.g., by holding up one of your hands and saying ' I know that this hand is a material thing ; therefore at least one person knows that there is at least one material thing ' ". And the question is, what are the grounds for one who holds ($\alpha$) to hold also ($\beta$) at the same time?

In his *Proof of an External World*,[1] Moore gives refutations of the proposition (1). In his example, we may say, the premiss was something which he expressed by holding up one of his hands and saying, " Here is a hand ", and the conclusion was , " There is at least one material thing." (Cf. 295–296). There he enunci-

[1] *Proceedings of the British Academy*, vol. xxv, 1939, pp. 273-300.

ates three necessary conditions for his proof to be a rigorous proof : namely (*a*) the premiss which he adduced as proof of the conclusion was different from the conclusion he adduced it to prove ; (*b*) the premiss which he adduced was something which he *knew* to be the case, and not merely something which he believed but which was by no means certain, or something which, though in fact true, he did not know to be so ; and (*c*) the conclusion did really follow from the premiss. He maintains that all these three conditions were in fact satisfied by his proof. With regard to the second condition, he says that he certainly did at the moment *know* that which he expressed by the combination of certain gestures with saying the words " Here is a hand ". He says he *knew* that there was a hand in the place indicated by combining a certain gesture with his utterance of " here ". And " How absurd it would be to suggest that I did not know it, but only believed it, and that perhaps it was not the case! You might as well suggest that I do not know that I am now standing up and talking—that perhaps after all I'm not, and that it's not quite certain that I am! " (296).

Suppose one minute ago I tried to refute the proposition (2) in a similar manner, the premiss having been something which I expressed by holding up one of my hands and saying " I know for certain here is a hand ", and the conclusion, ' 'At least one person knows for certain that there is at least one material thing". Let me call this supposed proof " my proof ". Did my proof satisfy the three conditions necessary for a rigorous proof? If it satisfied the three conditions, then Moore seems to have provided no ground for holding the proposition ($\beta$) in addition to and together with the proposition ($\alpha$). It is true that a proof satisfying these three conditions need not necessarily be a rigorous proof, for the conditions are only *necessary* conditions for a proof to be a rigorous proof. But, if the satisfaction of the three conditions does not suffice to qualify my proof as a rigorous proof, nor has Moore given any more reason for saying that his proof is a rigorous proof. Maybe there are additional conditions the satisfaction of which together with these three conditions is sufficient to qualify a proof as a rigorous proof. And maybe it is that these additional conditions were satisfied by Moore's proof that the proposition (1) is false, but not by my proof that the proposition (2) is false. However that may be, yet he certainly has given no such additional conditions. And it must be admitted that, if my proof did satisfy the three conditions, Moore has given no reason whatsoever for his holding the proposition ($\beta$) in addition to and together with the proposition ($\alpha$).

Now, did my proof satisfy the three conditions? (*a*) The premiss which I adduced in proof was quite certainly different from the conclusion, And (*c*) it is quite certain that the conclusion did follow from the premiss, for it could not be denied that I was a person. How about the second condition? When considering his proof, Moore asserts the proposition (A) " I certainly did at the moment *know* that which I expressed by the combination of certain gestures with saying the words ' Here is a hand ' ". Suppose I assert the corresponding proposition (B) " I certainly did at the moment *know* that which I expressed by the combination of certain gestures with saying the words ' I know for certain that here is a hand '." Yet, if I did at the moment know my premiss, what I knew is certainly not the same kind of thing as what Moore says he knew at the moment he was refuting the proposition (1). What he says he knew is that there was a hand in the place indicated by combining a certain gesture with his utterance of ' here '. What I knew is, if I did know it, that I knew that there was a hand in the place. Thus, though his gesture helped him to indicate what he knew (his premiss), my gesture certainly did not help me to indicate what I knew (my premiss) in the same sense or to the same extent. It seems more natural to hold up one of my hands and say " Here is a hand," than to hold up one of my hands and say "I know for certain that here is a hand". The question I want to ask is, am I justified in asserting the proposition (B) in connection with my premiss just as Moore is justified in asserting the proposition (A) in connection with his premiss? If I am, then my proof satisfies his three conditions, and then he gives no reason for saying that one cannot prove the proposition (2) to be false in such a simple way as he proved the proposition (1) to be false.

It seems obvious that, in a sense, what is expressed by the words " Here is a hand " is more closely connected with what is expressed by my gesture of holding up one of my hands than what is expressed by the words " I know for certain that here is a hand " is. And I think we can even say that, in a sense, the circumstances of holding up one of my hands and saying " Here is one hand " give me more knowledge about what is expressed by holding up one of my hands and saying " Here is a hand ", than the circumstances of holding up one of my hands and saying " I know for certain that here is a hand " give me about what is expressed by holding up one of my hands and saying "I know for certain that here is a hand". Also we have, in a sense, a better reason to assert the proposition (A) under the

former circumstances than to assert (B) under the latter circumstances. But I cannot say exactly in what sense we have more knowledge or better reason in one case than in the other, nor do I know what bearing the point (that we have in a sense more knowledge or better reason in one case) has on the answering of the question whether I am justified in asserting the proposition (B). Let us put aside these considerations and ask, am I justified in asserting the proposition (B)? If I am, then ($\beta$) is not true. If I am not, why?

I am interpreting the proposition ($\beta$) in such a way that it is true only if the proposition (2) cannot be proved to be false by holding up one of my hands and saying " I know that this hand is a material thing ; therefore at least one person knows that there is at least one material thing ". One might wish to interpret the proposition ($\beta$) so that it is also true if, although the proposition (2) can be proved in the above manner, the proof is not related to the proposition (2) in the same fashion as Moore's proof is to the proposition (1). If such an interpretation were adopted, what was said above would already be sufficient to establish the truth of the proposition ($\beta$). I do not, however, believe that this is the correct interpretation.

Sticking to my original understanding of ($\beta$), I can put my doubts in the following words. I am inclined to think that the proposition (B) is true. But if (B) is true, then the proposition ($\beta$) is false. At any rate, I find it difficult to say what more knowledge is required by those who question the truth of (B). If, for example, it is contended that to defend the proposition (B) I must be able to prove I am not dreaming, then I cannot see exactly why the same should not be required for a defence of the proposition (A).

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# A VARIANT OF THE 'HETEROLOGICAL' PARADOX

## A FURTHER NOTE

### By J. L. MACKIE *and* J. J. C. SMART

OUR solution of the paradox of M-heterologicality[1] might have been presented more neatly if we had used the distinction between *sentences* and *statements*.[2] If I say ' I am in Australia ' I use this sentence to make a true statement ; you, perhaps, would use the very same sentence to make a false statement. We *use* sentences to *make* statements. Sentences are

meaningful or meaningless (they can or can not be used to make statements) : statements are true or false.  Hence the disjunction 'false or meaningless' is an improper one.  The argument place in '*x* is false' can be filled only by names of *statements*, whereas that in '*x* is meaningless' can be filled only by names of *sentences*.  Hence the definition which introduces the paradox, namely 'The adjective 'X' is M-heterological if and only if "'X' is X" is either false or meaningless', is itself a meaningless sentence.  It is meaningless if "'X' is X" is a sentence name, because of the adjective 'false', and it is meaningless if "'X' is X" is a statement name, because of the adjective 'meaningless'. (Compare the way in which 'in' is used in two ways at once in 'he came home in a rage and a taxi', though this can easily be fixed up by rewording it as 'he came home in a rage and he came home in a taxi' or 'he came home in a taxi in a rage'.)

Someone may object, however, that this distinction is too rigid or too formal, and that a solution of the paradox based on it is artificial.  We do sometimes call a sentence true or false (and we can do so without confusion wherever we can assume that the sentence expresses one definite statement).  All that is needed, then, says the objector, to defend the paradox against this solution is to state it more carefully, amending the definition of 'M-het.' to read : 'X' is M-het. if and only if the sentence "'X' is X" either is meaningless or is used to make a statement which is false.  The argument of the paradox then considers the *sentence* "'M-het.' is M-het." (which we call S), and runs as follows :—

(i) If S is used to make a statement which is true, then by expanding the predicate 'M-het.' in accordance with the definition we infer that the sentence S either is meaningless or is used to make a statement which is false.

(ii) If S is used to make a statement which is false, we infer similarly that S neither is meaningless nor is used to make a statement which is false, and therefore that it is used to make a statement which is true.

(iii) If S is meaningless, 'M-het.' is a value of X which satisfies the definition, and so 'M-het.' *is* M-het., and therefore S is used to make a statement which is true.

The deduction in (ii) might be queried, on the ground that a sentence could be meaningful and yet not be actually used to make a statement which is either true or false.  But this difficulty could be met by restating (ii) in the same form as (iii), simply

[1] ANALYSIS, Vol. XIII, pp. 61–66.
[2] P. F. Strawson, *Introduction to Logical Theory*, pp. 3–4.

substituting ' used to make a statement which is false ' for
' meaningless '. So we appear still to have the paradox.

Nevertheless, the distinction between sentences and state-
ments does enable us to solve it. Since we are talking about
*uses* of the sentence S we do not have to say simply that S is
(always) used to make a true statement, or is (always) used to
make a false statement, or is (always) meaningless. For clearly
it is possible that on some occasions S is used to make a true
statement, on other occasions to make a false statement, and that
on others S cannot be used to make a statement at all. We might
say that " ' M-het. ' is M-het. " is used to make a true statement
when it refers to the fact that *in any other circumstances* " ' M-het. '
is M-het. " could not be used to make a statement, true or false.
In other words, the sentence " ' M-het. ' is M-het. " would
make no statement the first time you used it (because it would
obviously assert nothing), but you can then use the sentence a
second time, referring to the first time, and then it will be used to
make a true statement. Thus we can *accept* the argument of
(iii), for it ceases to be paradoxical once we see that the protasis
refers to one use of the sentence S, while the apodosis refers to a
different use.

There is no incompatibility between this solution and the
one given in Section III of our original paper. Our original
solution[1] brought out the type-difference between the predicates
' false ' and ' meaningless ', and also showed the inconsistency
involved in a treatment of S as some one thing that could be
operated with logically while the question whether it was mean-
ingless was still under consideration, that is, in a reading of (iii)
which takes its protasis and apodosis to refer to the same use of
S, while our new solution shows how (iii) is correct but non-
paradoxical if its protasis and apodosis refer to two different
uses of S.

A further point of interest is this : since ' true ' and ' false '
are predicates of statements, not strictly of sentences, whereas
' meaningful ' and ' meaningless ' are predicates of sentences, not
statements, it is clearly wrong to talk of ' meaningless ' as though
it could be a " truth-value ". This shows that the generalisation
of the ' heterological ' paradox by P. T. Landsberg[2] is in no
sense a generalisation of the M-heterological paradox (as some of
his remarks tend to suggest). Landsberg is careful to avoid

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[1] Part of which read : " But here too, in *applying* the definition, in trying it out on
'M-het.', we have assumed that there is a real question whether ' M-het. ' is M-het. or not,
i.e., we have assumed that " ' M-het.' is M-het. " would assert something, while the very
hypothesis that we are considering is that it is meaningless and does not assert anything."

[2] *Mind*, Vol. LXII (1953), pp. 379–81.

giving an interpretation to his intermediate truth-values, and so the point just made does not affect his argument, but it is important to be clear about it. Consider, for example, a 3-valued logic of future contingencies, and consider the following predicates :—

(1) ' written on this page '     (2) ' written on the moon '
(3) ' written by you next Thursday '.

Of these, (1) applies to itself, and (2) misapplies to itself. But to the question " Will ' written by you next Thursday ' be written by you next Thursday? " we might answer " Possibly, possibly not ", and so we might assign to " ' Written by you next Thursday ' is written by you next Thursday " the intermediate truth-value. The question of heterologicality generalised in *this* way is what Landsberg has investigated : the question of M-heterologicality requires a quite different treatment and is not specially connected with many-valued logics.

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## NOTE ON THE "GAMBLER'S FALLACY"

### *By* R. F. ATKINSON

WRITERS on the theory of probability not infrequently conceive it to be their duty to warn their readers against the fallacy of the " maturity of chances " or the " gambler's fallacy ".[1] Gamblers, it appears, are of the opinion that, when two heads have been obtained on successive tosses of a coin, it is more likely (or probable) than not that tails will turn up on the third throw. It is, however, urged that this view is false and that the arguments used to support it are fallacious, although specious—so specious, indeed, that, in Reichenbach's words, " It requires some theoretical training not to submit to the suggestive power of this fallacy ". I agree that gamblers may sometimes use fallacious arguments to defend their opinion, but I fail to see why the opinion itself should be false, and I am certain that it cannot be shown to be false *a priori*.

Mr. Kneale, to take a representative example, writes as follows : " There is no ground whatever for the (gambler's) view. The only ground we have for expecting one frequency of

[1] See, for example, Kneale, Probability and Induction, p. 140 ; Reichenbach, The Theory of Probability, p. 153 (2nd Ed. 1949) ; Cohen and Nagel, Introd. Logic and Scientific Method, p. 169.

Kneale and Cohen and Nagel take coin tossing as an example, Reichenbach the slightly more complicated case of throwing dice.

heads rather than another is Bernoulli's theorem, and it is a condition for the correct application of this that the several trials (i.e. tosses of the coin) should be without influence on each other. It is absurd to try to prove that the probability of a coin's coming down tails is greater than $\frac{1}{2}$ by use of an argument which starts with the assumption that the probability is $\frac{1}{2}$ each time." Plainly, such an *argument* is absurd, but it does not follow that its conclusion is false unless Mr. Kneale is correct in asserting that the *only* ground we have for expecting one frequency of heads rather than another is Bernoulli's theorem. And this assertion is false.

Suppose the gambler were content to argue that, *as a matter of experience*, runs of three heads are rare. Surely this would be a good reason for claiming that tails was more likely than heads after two heads. I do not see why this claim need be shaken by any talk about the conditions which must be fulfilled for the correct application of Bernoulli's theorem. All that could shake it would be the opinion of some more seasoned gambler that runs of three heads were as common as sequences in which two heads were followed by tails. But it would still not follow that tails was *always* as likely as heads. It would only follow that this was the case on the third throw. The gambler could still claim that tails were more likely on the fourth throw—or on the fifth or the sixth, as it might happen to be.

In any event I do not see how such claims can be disallowed on *a priori* grounds—not, that is, unless one makes it part of the definition of a game of chance that there can be no " system ", such as betting on tails after two heads, for improving one's chances of winning. It must be admitted that Mr. Kneale does take this course but, even so, all that follows is that it is a mistake to call roulette, coin tossing, dice rolling, etc., games of chance. It will not follow that gamblers are mistaken in thinking black more likely than red after red has won twice, tails more likely than heads after two heads, some other number more likely than 6 after two 6's.

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